

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 307.12 and section 307A.2 as amended by 2015 Iowa Acts, House File 635, section 20, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 160, “County and City Bridge Construction Funds,” Chapter 161, “Federal-Aid Highway Bridge Replacement and Rehabilitation Program,” Chapter 170, “Allocation of Farm-to-Market Road Funds,” Chapter 172, “Availability of Instructional Memorandums to County Engineers,” Chapter 173, “Preparation of Secondary Road Construction Programs, Budgets, and County Engineers’ Annual Reports,” Chapter 174, “Reimbursable Services and Supplies,” and Chapter 178, “Project Cost Reporting Requirements for Cities and Counties,” Iowa Administrative Code.

The proposed amendments to Chapter 160 add new rules concerning the purpose of the chapter and contact information, remove the requirement that city bridge construction funds cannot be spent on primary road extensions, and make a clarifying change concerning the county and city bridge construction eligibility lists.

The proposed amendments to Chapter 161 change the title of the chapter to reflect the state’s current program title. The Federal-Aid Highway Bridge Replacement and Rehabilitation Program was replaced with the Highway Bridge Program under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. Subsequently, the Highway Bridge Program was eliminated under the Moving Ahead for Progress in the 21st Century Act. Iowa’s associations representing cities and counties requested, and the Iowa Transportation Commission approved, the Department’s continuing to administer a program similar to the Highway Bridge Program using a portion of the “50 percent available to any area of the state” Federal-Aid Surface Transportation Program funding. Amendments to this chapter reflect the continuation of a bridge program administered by the Department as determined by the cities’ and counties’ associations. Other proposed amendments add new rules concerning the purpose of the chapter and contact information.

The proposed amendments to Chapter 170 add new rules concerning the purpose of the chapter and contact information, update the chapter’s implementation sentence, and require a county wanting to receive a temporary, advance allocation to include the request in its final plan submittal to the Department.

The proposed amendments to Chapter 172 change the title of the chapter and make corresponding amendments to reflect that the Department is providing instructional memorandums to local public agencies and not just county engineers. The instructional memorandums are available at no cost on the Department’s Web site. Other proposed amendments add new rules concerning the purpose of the chapter and contact information and update the implementation sentence.

The proposed amendments to Chapter 173 change the title of the chapter, make corresponding amendments to reflect the correct name of the annual report, update the chapter’s implementation sentence, and add new rules concerning the purpose of the chapter and contact information.

The proposed amendments to Chapter 174 add a new rule concerning the purpose of the chapter, update the implementation sentence, and make changes to the Department’s list of highway-related services and supplies that counties and cities may request from the Department.

The proposed amendments to Chapter 178 correct Iowa Code citations, update the chapter’s implementation sentence and remove the requirement that the Department publish a paper copy of the instructions for cities and counties to report project cost information. Also, the definition of “city” is amended to clarify the requirement that the Amana Colonies complete the project cost report when completing its annual Street Financial Report, and “highway” was changed to “roadway” so that roadway, not just highway, lighting projects are included in the report.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; e-mail: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than January 12, 2016.

A meeting to hear requested oral presentations is scheduled for Thursday, January 14, 2016, at 10 a.m. in the Administration Building, First Floor South Conference Room, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 307.24 as amended by 2015 Iowa Acts, House File 635, section 10, and Iowa Code sections 307.12, 307.44, 309.22, 309.93, 310.27, 312.2, 312.14, 314.1 and 314.1A.

The following amendments are proposed.

ITEM 1. Renumber rules **761—160.1(312)** and **761—160.2(312)** as **761—160.3(312)** and **761—160.4(312)**.

ITEM 2. Adopt the following new rule 761—160.1(312):

761—160.1(312) Purpose. The purpose of these rules is to establish requirements for the counties' and cities' bridge construction funds, in accordance with Iowa Code section 312.2.

ITEM 3. Adopt the following new rule 761—160.2(312):

761—160.2(312) Contact information. Questions regarding this chapter may be directed to the Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

ITEM 4. Amend renumbered rule 761—160.4(312) as follows:

761—160.4(312) Administration of funds. The department shall allocate the funds to counties and cities for bridge construction and reconstruction projects based on needs. The funds shall be administered by the department's office of local systems.

160.4(1) No change.

160.4(2) The city bridge construction fund shall be allocated for projects on city streets as determined by the department after consultation with city officials through their representative organizations. ~~City streets do not include primary road extensions.~~

160.4(3) To be considered for funding, a proposed project must be on the appropriate eligibility list maintained by the department.

a. No change.

b. A local jurisdiction may propose a project by submitting a project application to the ~~following address: Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010~~ office of local systems.

c. Unless otherwise agreed to by the city and county, a proposed project for a bridge located on the line dividing incorporated and unincorporated areas shall be placed on the eligibility list that corresponds to the jurisdiction submitting the application.

160.4(4) Prior to allocation, the department shall rank the proposed projects within each eligibility list by a priority system based on needs, as developed under subrules ~~160.2(1)~~ **160.4(1)** and ~~160.2(2)~~ **160.4(2)**. The priority system will include various items such as, but not limited to, structural condition, traffic, and detour length. For each list, the department shall allocate funds, within the limits of funding availability, to those projects ranked as having the greatest needs.

ITEM 5. Amend **761—Chapter 161**, title, as follows:

**FEDERAL-AID HIGHWAY BRIDGE REPLACEMENT
AND REHABILITATION PROGRAM**

ITEM 6. Renumber rules **761—161.1(307)** and **761—161.2(307)** as **761—161.3(307)** and **761—161.4(307)**.

ITEM 7. Adopt the following new rule **761—161.1(307)**:

761—161.1(307) Purpose. The purpose of these rules is to establish requirements for the counties' and cities' federal-aid highway bridge program, in accordance with Iowa Code section 307.44.

ITEM 8. Adopt the following new rule **761—161.2(307)**:

761—161.2(307) Contact information. Questions regarding this chapter may be directed to the Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

ITEM 9. Amend renumbered rule **761—161.3(307)** as follows:

761—161.3(307) Source of funds. The Surface Transportation Program established in Section 144 133 of Title 23 of the United States Code provides for the use of federal funds to replace or rehabilitate public road bridges that are unsafe because of structural deficiencies, physical deterioration, or functional obsolescence. At least 15 percent, but not more than 35 percent, of the funds apportioned to the state shall be expended to replace or rehabilitate bridges on public roads which are not a part of a federal aid system. The department, in consultation with county and city officials through their representative organizations, has dedicated a portion of these funds for replacement and rehabilitation of city and county bridges.

ITEM 10. Amend renumbered rule **761—161.4(307)** as follows:

761—161.4(307) Administration of funds. The Highway Bridge Program funds apportioned to the state shall be made available for obligation throughout the state on a fair and equitable basis. The department shall administer the program by dividing each fiscal year Highway Bridge Program apportionment into three two separate funds: one for the state; one for the counties; and one for the incorporated cities. The amount allocated to each of the three two funds shall be determined by the department after consultation with county and city officials through their representative organizations. This consultation shall precede any change in allocation.

~~**161.4(1)** The state share shall be administered and obligated by the department.~~

~~**161.4(2)**~~ **161.4(1)** The counties' share shall be administered by the department's office of local systems and shall be divided among the counties as determined by the department after consultation with county officials through their representative organizations.

~~**161.4(3)**~~ **161.4(2)** The cities' share shall be administered by the department's office of local systems and shall be divided among the cities as determined by the department after consultation with city officials through their representative organizations.

~~**161.4(4)** To be eligible, the bridge must have a completed structural inventory and appraisal (SI & A) report on file with the department in accordance with National Bridge Inspection Standards, be structurally deficient or functionally obsolete, and have a sufficiency rating that complies with federal requirements.~~

ITEM 11. Renumber rule **761—170.1(310)** as **761—170.3(310)**.

ITEM 12. Adopt the following new rule 761—170.1(310):

761—170.1(310) Purpose. The purpose of these rules is to establish requirements for the counties' allocation of farm-to-market funds, in accordance with Iowa Code section 310.27.

ITEM 13. Adopt the following new rule 761—170.2(310):

761—170.2(310) Contact information. Questions regarding this chapter may be directed to the Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

ITEM 14. Amend renumbered rule 761—170.3(310) as follows:

761—170.3(310) Temporary allocation. Temporary, advance allocation of farm-to-market road funds to counties is permitted under this rule up to an amount equal to the current fiscal year's anticipated receipts plus the four succeeding fiscal years' anticipated receipts to the requesting county's farm-to-market road fund.

170.3(1) Requesting an advance allocation. A county wishing to receive a temporary, advance allocation shall include its request as part of ~~the secondary road budget and program documents~~ its final plan submittal to the department.

170.3(2) Limitations on advancements. In making the determination to advance allocations to any requesting county, and in determining the priority that each county shall have in the request for funds, the department shall consider the following factors:

a. to c. No change.

d. The county must have met the local effort requirements of funds raised under Iowa Code subsection ~~312.2(8)~~ 312.2(5).

e. to h. No change.

~~**170.3(3) Contact information.** Questions regarding this rule may be directed to the Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.~~

~~This rule is intended to implement Iowa Code section 310.27.~~

ITEM 15. Adopt the following new implementation sentence in **761—Chapter 170**:

These rules are intended to implement Iowa Code section 310.27.

ITEM 16. Amend **761—Chapter 172**, title, as follows:

AVAILABILITY OF INSTRUCTIONAL MEMORANDUMS
TO COUNTY ENGINEERS LOCAL PUBLIC AGENCIES

ITEM 17. Renumber rule **761—172.1(307A)** as **761—172.3(307A)**.

ITEM 18. Adopt the following new rule 761—172.1(307):

761—172.1(307) Purpose. The purpose of these rules is to establish requirements for instructional memorandums, in accordance with Iowa Code section 307.24 as amended by 2015 Iowa Acts, House File 635, section 10.

ITEM 19. Adopt the following new rule 761—172.2(307):

761—172.2(307) Contact information. Questions regarding this chapter may be directed to the Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

ITEM 20. Amend renumbered rule 761—172.3(307A) as follows:

761—172.3(307A 307) Instructional memorandums to county engineers local public agencies. ~~The department shall produce a manual of instructional memorandums to county engineers regarding secondary and farm-to-market roads. The manual shall communicate instructions, requirements and guidance information to the counties. The department shall produce instructional memorandums that communicate instructions, requirements, and guidance information on a variety of transportation-~~

related topics to local public agencies. The instructional memorandums and updates shall be available electronically, at no cost, to all local public agencies on the department's Web site, www.iowadot.gov.

~~172.3(1) The manual of instructional memorandums and updates shall be available to all county engineers free of charge from the Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.~~

~~172.3(2) Reserved.~~

~~This rule is intended to implement Iowa Code section 307A.2.~~

ITEM 21. Adopt the following new implementation sentence in **761—Chapter 172**:

These rules are intended to implement Iowa Code section 17A.3 and section 307.24 as amended by 2015 Iowa Acts, House File 635, section 10.

ITEM 22. Amend **761—Chapter 173**, title, as follows:

PREPARATION OF SECONDARY ROAD CONSTRUCTION PROGRAMS,
BUDGETS, AND COUNTY ENGINEERS' ANNUAL REPORTS

ITEM 23. Renumber rules **761—173.1(309)** to **761—173.3(309)** as **761—173.3(309)** to **761—173.5(309)**.

ITEM 24. Rescind rule **761—173.4(309)**.

ITEM 25. Adopt the following new rule 761—173.1(309):

761—173.1(309) Purpose. The purpose of these rules is to establish requirements for preparation of secondary road construction programs, budgets, and county annual reports, in accordance with Iowa Code sections 309.22 and 309.93.

ITEM 26. Adopt the following new rule 761—173.2(309):

761—173.2(309) Contact information. Questions regarding this chapter may be directed to the Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

ITEM 27. Amend renumbered rule 761—173.3(309) as follows:

761—173.3(309) County Secondary road construction program. Each year the department shall distribute to the counties a set of detailed instructions for the preparation of the county secondary road construction program required by Iowa Code section 309.22. The instructions shall constitute the form, content and method of preparation acceptable to the department.

~~This rule is intended to implement Iowa Code section 309.22.~~

ITEM 28. Amend renumbered rule 761—173.4(309) as follows:

761—173.4(309) County secondary road budget. Each year the department shall distribute to the counties a set of detailed instructions for the preparation of the county secondary road budget required by Iowa Code section 309.93. The instructions shall constitute the form, content and method of preparation acceptable to the department.

~~This rule is intended to implement Iowa Code section 309.93.~~

ITEM 29. Amend renumbered rule 761—173.5(309) as follows:

761—173.5(309) County engineer's annual report. Each year the department shall distribute to the counties a set of detailed instructions for the preparation of the county engineer's county annual report required by Iowa Code section 309.22. The instructions shall constitute the standard requirements which must be followed and the forms to be completed.

~~This rule is intended to implement Iowa Code section 309.22.~~

ITEM 30. Adopt the following new implementation sentence in **761—Chapter 173**:

These rules are intended to implement Iowa Code sections 309.22 and 309.93.

ITEM 31. Renumber rules **761—174.1(307)** and **761—174.2(307)** as **761—174.2(307)** and **761—174.3(307)**.

ITEM 32. Adopt the following new rule 761—174.1(307):

761—174.1(307) Purpose. The purpose of these rules is to list highway-related services and supplies that counties and cities may typically request from the department, in accordance with Iowa Code sections 17A.3 and 307.12.

ITEM 33. Amend renumbered rule 761—174.3(307) as follows:

761—174.3(307) Reimbursable services and supplies.

174.3(1) ~~The purpose of this rule is to list highway-related services and supplies that counties and cities may typically request from the department. The list is not exhaustive.~~ The department may require reimbursement for the services and supplies furnished. If an item to be reimbursed is for a farm-to-market project, the cost of the item will be charged to the county's farm-to-market road fund. The following list is not exhaustive:

a. Structural analysis: ~~A~~ The department will provide standards, a detailed field or office study inspection of an existing or proposed structure to determine condition or load-carrying capacity and advise on capacity calculations.

b. Hydraulic analysis: ~~An in-depth field or office review of hydraulic functioning and adequacy of a proposed or existing drainage complex.~~ The department will review structures in a detailed flood insurance study area, when a culvert will replace a bridge, and when a proposed structure is smaller than the existing structure.

c. Shop inspection: ~~Inspection~~ The department will assist with arranging inspection of steel fabrication at the assembly point to determine compliance with plans, specifications and approved shop drawings.

d. Physical testing: ~~Inspection, laboratory or field testing, and documentation of results to a county or city on any material samples for any purpose obtained by the department, county, city or consultant.~~ The department will provide specialized materials inspection, sampling, and testing when a project has federal funding or when requested for a project that has state assistance and involves work on a primary road. When requested for farm-to-market projects, limited specialized materials inspection, sampling, and testing will be provided.

e. Inspection supplies and equipment repairs: ~~All inspection equipment furnished by the laboratory will be on loan to a county or city and shall be returned upon completion of the project or the season.~~ All inspection supplies furnished from warehouse stock shall be paid for by the receiving county or city and shall not be returned for credit. The cost of all equipment repairs performed for a county or city shall be charged to that county or city.

f. Manuals and publications: ~~The department will provide each county with a single copy of each publication required to be used by the county (e.g., standard specifications). Any additional copies requested by a county will require reimbursement from the county. All other publications requested by a county or city will be at the county's or city's expense~~ manuals and publications on its Web site, www.iowadot.gov.

g. Office supplies.

h. ~~Printing services: Preparation and printing of plans, offset prints, photo processes, and other printing performed for a county or city.~~

i. ~~Schools Training: Extended instruction~~ The department will provide training on various road subjects, attended by for county or and city personnel on an application basis.

j. ~~Pile bearing tests: Test loading of piles to determine pile load-bearing capacity.~~

k. ~~i.~~ Tabulation of bids: All lettings; by subscription. The department will publish the tabulation of bids for projects let through the department on its Web site, www.iowadot.gov.

l. ~~Lease of department equipment to a county or city. See paragraph "e" of this subrule for inspection equipment.~~

~~##. j.~~ Special traffic counts requested by a county or city.

174.3(2) Reserved.

ITEM 34. Amend **761—Chapter 174**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 307 and section~~ sections 17A.3 and 307.12.

ITEM 35. Amend rule 761—178.1(314) as follows:

761—178.1(314) Purpose. The purpose of these rules is to establish requirements for the reporting by cities and counties of project cost information to the department, in accordance with ~~2001 Iowa Acts, chapter 32, sections 4 and 5~~ Iowa Code section 314.1A.

ITEM 36. Amend rule **761—178.3(314)**, definition of “City,” as follows:

“City” means a municipal corporation as defined in Iowa Code section 312.8 or 362.2.

ITEM 37. Amend subrule 178.4(1), introductory paragraph, as follows:

178.4(1) Each year the department shall ~~distribute~~ provide to cities and counties a set of detailed instructions for reporting the following information:

ITEM 38. Amend rule 761—178.5(314) as follows:

761—178.5(314) Project reporting. Reporting under ~~2001 Iowa Acts, chapter 32, sections 4 and 5,~~ Iowa Code section 314.1A of projects accomplished by day labor or contract is required for any construction, reconstruction or improvement project that has a total cost of 90 percent or more of the applicable bid threshold (~~see 2001 Iowa Acts, chapter 32, sections 7 and 9, for an explanation of bid thresholds~~). Other reporting requirements set out in the Iowa Code still apply.

178.5(1) Types of projects. Project type shall be identified. The project types are:

a. Bridge. The definition of “bridge” in Iowa Code section ~~309.75~~ 309.1 applies. This project type includes removal of existing structures and all new construction, reconstruction and improvement of bridges.

b. Culvert. The definition of “culvert” in Iowa Code section ~~309.75~~ 309.1 applies. This project type includes new construction or installation of an individual box or pipe culvert with a span or diameter that is greater than four feet but no greater than 20 feet.

c. to e. No change.

f. Traffic control. This project type includes, but is not limited to, installation of major signs, traffic signals, railroad crossing signals, guardrail, ~~highway~~ roadway lighting, construction signing, and pavement markings on newly paved roads and streets.

g. No change.

178.5(2) and 178.5(3) No change.

ITEM 39. Amend **761—Chapter 178**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 309.22, 309.93, 312.14, ~~and 314.1₂~~ and ~~2001 Iowa Acts, chapter 32, sections 4, 5, 7, 8, 9, and 12~~ 314.1A.